

Today *last*
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POLLUTION CONTROL AGENCY

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
QUEEN CITY SHEET METAL)
& ROOFING, INC.,)
Appellant,)
v.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 657

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

THIS MATTER being an appeal of two civil penalties of \$50.00 each for alleged dust-emission violations; having come on regularly for hearing before the Pollution Control Hearings Board on the 8th day of October, 1974, at Seattle, Washington; and appellant Queen City Sheet Metal & Roofing, Inc. appearing through its attorney John A. Ober, and respondent Puget Sound Air Pollution Control Agency appearing through its attorney Keith D. McGoffin; and Board members present at the hearing being Chris Smith and Walt Woodward; and the Board having considered

1 the sworn testimony, exhibits, records and files herein and having
2 entered on the 10th day of October, 1974, its proposed Findings of
3 Fact, Conclusions of Law and Order; and the Board having served said
4 proposed Findings, Conclusions and Order upon all parties herein by
5 certified mail, return receipt requested and twenty days having elapsed
6 from said service; and

7 The Board having received no exceptions to said proposed Findings,
8 Conclusions and Order; and the Board being fully advised in the premises;
9 now therefore,

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
11 Findings of Fact, Conclusions of Law and Order, dated the 10th day of
12 October, 1974, and incorporated by this reference herein and attached
13 hereto as Exhibit A, are adopted and hereby entered as the Board's
14 Final Findings of Fact, Conclusions of Law and Order herein.

15 DONE at Lacey, Washington this 27th day of November, 1974.

16 POLLUTION CONTROL HEARINGS BOARD

17 Walt Woodward
18 WALT WOODWARD, Chairman

19 Chris Smith
20 CHRIS SMITH, Member

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27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

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Mr. John H. Ober
Attorney at Law
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Mr. Keith D. McGoffin
Burkey, Marsico, Roval, McGoffin,
Turner and Mason
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Tacoma, Washington 98405

Queen City Sheet Metal &
Roofing, Inc.
1711 Occidental Avenue South
Seattle, Washington 98134

Puget Sound Air Pollution
Control Agency
410 West Harrison Street
Seattle, Washington 98119

DOLORIES OSLAND, Clerk of the
POLLUTION CONTROL HEARINGS BOARD

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POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
QUEEN CITY SHEET METAL)
& ROOFING, INC.,)
Appellant,)
v.)
PUGET SOUND AIR POLLUTION)
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Respondent.)

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FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

This matter, the appeal of two civil penalties of \$50.00 each for alleged dust-emission violations, came before the Pollution Control Hearings Board (Chris Smith, presiding officer, and Walt Woodward) in a formal hearing in the Seattle facilities of the State Board of Industrial Insurance Appeals on October 8, 1974.

Appellant appeared through John A. Ober and respondent through Keith D. McGoffin. Dave Ummel, Olympia court reporter, recorded the proceedings.

A witness was sworn and testified. Exhibits were offered and

EXHIBIT A

1 admitted.

2 From testimony heard and exhibits examined, the Pollution Control
3 Hearings Board makes these

4 FINDINGS OF FACT

5 I.

6 Respondent, pursuant to Section 5, chapter 69, Laws of 1974, 3rd
7 Ex. Sess., has filed with this Board a certified copy of its Regulation I
8 containing respondent's regulations and amendments thereto.

9 II.

10 On July 1, 1974, appellant's workmen were preparing the roof of the
11 building at Terminal 106, Port of Seattle, in King County, for re-roofing.
12 They used a mechanical sweeper which was not equipped with a dust-collector
3 bag. They also used wheelbarrows to transport loose dust-laden sweepings
14 to a chute at the edge of the roof, from which they dumped the wheelbarrow
15 contents some 20 to 30 feet below to a dumpster located on the ground
16 below; the chute was not enclosed and no water spray was employed in this
17 dumping operation.

18 III.

19 Particulate matter in the form of dust from the sweeping operation
20 rose to a height of 10 or 12 feet above the roof, was transported by a
21 light northerly wind and deposited on a sidewalk, on parked vehicles and
22 on the property of a household goods moving concern, all located south
23 of the Terminal building.

24 IV.

25 Uncontroverted testimony established that a reasonable precaution
-6 normally taken to prevent particulate matter from being airborne in the

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 employment of a mechanical sweeper is to attach a dust-collector bag to
2 the sweeper.

3 V.

4 Section 9.15(b) of respondent's Regulation I makes it unlawful to
5 cause or permit a building to be repaired without taking reasonable
6 precautions to prevent particulate material from becoming airborne.

7 VI.

8 In connection with the roof-sweeping incident described in
9 Findings of Fact II, III and IV, respondent served on appellant Notice
10 of Violation No. 9969, citing Section 9.15 of Regulation I, and,
11 subsequently, Notice of Civil Penalty No. 1674 in the sum of \$50.00,
12 which is one of the two civil penalties which are the subjects of this
13 appeal.

14 VII.

15 Particulate matter in the form of dust from the wheelbarrow-dumping
16 operation also rose to a height of 20 to 30 feet in the air, was
17 transported by the wind and deposited on the sidewalk, vehicles and
18 business concern identified in Finding of Fact III.

19 VIII.

20 Uncontroverted testimony established that reasonable precautions
21 normally taken to prevent particulate matter from being airborne in a
22 dumping operation are to use a bag-enclosed chute and/or a water spray.

23 IX.

24 In connection with the wheelbarrow-dumping operation described in
25 Findings of Fact II, VII and VIII, respondent served on appellant Notice
26 of Violation No. 9970, citing Section 9.15 of Regulation I, and,

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 subsequently, Notice of Civil Penalty No. 1673 in the sum of \$50.00,
2 which is one of the two civil penalties which are the subjects of this
3 appeal.

4 X.

5 Section 3.29 of respondent's Regulation I provides that a civil
6 penalty of not more than \$250.00 may be levied for any violation of
7 Regulation I.

8 XI.

9 Any Conclusion of Law hereinafter cited which is deemed to be a
10 Finding of Fact is herewith adopted as same.

11 From these Findings, the Pollution Control Hearings Board comes
12 to these

13 CONCLUSIONS OF LAW

14 I.

15 Appellant was in violation of Section 9.15(b) of respondent's
16 Regulation I on July 1, 1974 as cited in Notices of Violation Nos. 9969
17 and 9970.

18 II.

19 The civil penalties, each being one-fifth of the maximum allowable
20 amount, are reasonable.

21 III.

22 Any Finding of Fact herein which is deemed to be a Conclusion of
23 Law is herewith adopted as same.

24 Therefore, the Pollution Control Hearings Board issues this

25 ORDER

The appeals are denied and Notices of Civil Penalty Nos. 1673 and

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 1674 are sustained in the amount of \$50.00 each.

2 DONE at Lacey, Washington this 11 day of October, 1974.

3 POLLUTION CONTROL HEARINGS BOARD

4 Walt Woodward
5 WALT WOODWARD, Chairman

6 Chris Smith
7 CHRIS SMITH, Member

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FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER